

HOUSE BILL 1087

C5, P1

2lr3146
CF SB 746

By: **Delegates Hixson and Davis**

Introduced and read first time: February 10, 2012

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 31, 2012

CHAPTER _____

1 AN ACT concerning

2 ~~Telecommunications~~ **Communications Companies – Universal Service Trust**
3 **Fund – Surcharge**

4 FOR the purpose of expanding the services that are subject to the Universal Service
5 Trust Fund surcharge; requiring that a certain surcharge be applied to certain
6 bills and be payable at a certain time; altering the maximum amount of a
7 certain surcharge; providing that a certain surcharge is payable by account;
8 requiring the ~~Public Service Commission~~ Secretary of Information Technology
9 to direct certain companies to add the surcharge to certain bills for certain
10 services under certain circumstances; providing that the money in the Fund
11 may only be used for certain purposes; requiring the Public Service Commission
12 to determine a certain surcharge annually for the following fiscal year;
13 requiring the Commission to set and adjust a certain surcharge in a certain
14 manner and under certain circumstances; requiring that certain funds be
15 carried forward in the Fund for a certain purpose; requiring certain companies
16 to act as collection agents for the Fund and to remit certain proceeds to the
17 Comptroller for deposit in the Fund; providing certain companies a certain
18 credit against certain proceeds; providing that this Act may not be construed to
19 expand the jurisdiction of the Commission in any manner over certain services;
20 defining certain terms; making certain technical changes; and generally relating
21 to the Universal Services Trust Fund surcharge on certain ~~telecommunications~~
22 communications services.

23 BY repealing and reenacting, without amendments,

24 Article – State Finance and Procurement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section ~~3A-501(a) and (e)~~, 3A-504(a), 3A-601(a) and (c), 3A-602(a), and 3A-606
 2 Annotated Code of Maryland
 3 (2009 Replacement Volume and 2011 Supplement)

4 BY adding to
 5 Article – State Finance and Procurement
 6 Section ~~3A-501(g)~~ 3A-501(c) and ~~(d)~~ (d)
 7 Annotated Code of Maryland
 8 (2009 Replacement Volume and 2011 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – State Finance and Procurement
 11 Section ~~3A-501(g)~~ 3A-501(c) through (g) and 3A-506
 12 Annotated Code of Maryland
 13 (2009 Replacement Volume and 2011 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – State Finance and Procurement**

17 3A-501.

18 (a) In this subtitle the following words have the meanings indicated.

19 **(C) “COMMUNICATIONS COMPANY” MEANS A PUBLIC SERVICE**
 20 **COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE, OR ANY**
 21 **OTHER COMPANY, THAT PROVIDES A COMMUNICATIONS SERVICE.**

22 **(D) “COMMUNICATIONS SERVICE” MEANS:**

23 **(1) LANDLINE TELEPHONE SERVICE;**

24 **(2) WIRELESS OR CELLULAR TELEPHONE SERVICE; OR**

25 **(3) VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS**
 26 **DEFINED IN § 8-601 OF THE PUBLIC UTILITIES ARTICLE.**

27 ~~(e)~~ **(E)** “Dual party telephone relay program” means a service that
 28 provides full and simultaneous communication between a person or persons with a
 29 disability that prevents them from using a standard telephone and a person or persons
 30 without that disability using conventional telephone equipment or other technology or
 31 equipment, whereby the disabled person or persons have their message relayed
 32 through an intermediary party using specialized telecommunications equipment.

33 **[(d)] (F)** **“Program” means the dual party telephone relay program.**

1 ~~[(e)] (G)~~ “Program participant” means a resident of the State who uses the
 2 dual party telephone relay program.

3 ~~[(f)] (H)~~ (1) “Specialized customer telephone equipment” means any
 4 communications device that enables or assists a person with a disability to
 5 communicate with others by means of the public switched telephone network or
 6 Internet protocol-enabled voice communications service.

7 (2) “Specialized customer telephone equipment” includes:

8 (i) TDD/TT/TTY;

9 (ii) amplifiers;

10 (iii) captioned telephones;

11 (iv) VRS equipment;

12 (v) cell phones;

13 (vi) pagers;

14 (vii) puff blow devices;

15 (viii) Braille-TTY devices; and

16 (ix) equipment for the mobility disabled.

17 ~~(G) “TELECOMMUNICATIONS COMPANY” MEANS A COMPANY THAT:~~

18 ~~(1) IS:~~

19 ~~(I) A PUBLIC SERVICE COMPANY, AS DEFINED IN §~~
 20 ~~1-101 OF THE PUBLIC UTILITIES ARTICLE;~~

21 ~~(II) A WIRELESS COMMUNICATIONS COMPANY; OR~~

22 ~~(III) AN INTERNET PROTOCOL TELEPHONY COMPANY; AND~~

23 ~~(2) (I) PROVIDES FOR THE RECEPTION, TRANSMISSION, OR~~
 24 ~~COMMUNICATION OF MESSAGES BY TELEPHONE OR OTHER DEVICE; OR~~

25 ~~(II) LEASES, SELLS, OR RESELLS TELEPHONE OR~~
 26 ~~TELECOMMUNICATIONS SERVICE.~~

1 [(g)] ~~(H)~~ (I) “Telecommunications device for the deaf” or “TDD/TT/TTY” means
 2 all types of mechanical devices that enable disabled individuals to communicate
 3 through messages sent and received through a telephone or wireless network.

4 ~~(I) “TELECOMMUNICATIONS SERVICE” MEANS:~~

5 ~~(1) LANDLINE TELEPHONE SERVICE;~~

6 ~~(2) WIRELESS TELEPHONE SERVICE; OR~~

7 ~~(3) VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS~~
 8 ~~DEFINED IN § 8 601 OF THE PUBLIC UTILITIES ARTICLE.~~

9 3A-504.

10 (a) The Department in consultation with the Board shall:

11 (1) establish and administer a program to provide cost-efficient,
 12 24-hour, dual party relay service to program participants at a comparable level of
 13 access and quality that a standard telecommunication service provides to a person
 14 without a hearing or speech disability;

15 (2) develop the program in collaboration with State programs
 16 currently serving disabled individuals and with community agencies or other
 17 organizations that have established relay programs; and

18 (3) maintain an information and referral service to provide
 19 information about the availability of the relay service.

20 3A-506.

21 (a) The programs under § 3A-504(a) of this subtitle and § 3A-602(a) of this
 22 title shall be funded as provided in the State budget.

23 (b) (1) There is a Universal Service Trust Fund created for the purpose of
 24 paying the costs of maintaining and operating the program under § 3A-504(a) of this
 25 subtitle subject to the limitations and controls provided in this subtitle, and the
 26 program under § 3A-602(a) of this title subject to the limitations and controls provided
 27 in Subtitle 6 of this title.

28 (2) Moneys in the Universal Service Trust Fund shall be held in the
 29 State Treasury.

30 (3) MONEY IN THE UNIVERSAL SERVICE TRUST FUND MAY ONLY
 31 BE USED:

1 (I) TO FUND THE COSTS OF THE PROGRAMS SPECIFIED IN
 2 PARAGRAPH (1) OF THIS SUBSECTION; AND

3 (II) TO PAY FOR THE ADMINISTRATION OF THE UNIVERSAL
 4 SERVICE TRUST FUND.

5 (c) (1) The costs of the programs under § 3A-504(a) of this subtitle and §
 6 3A-602(a) of this title shall be funded by revenues generated by:

7 (I) a surcharge to be paid by the subscribers to [switched local
 8 exchange access] A ~~TELECOMMUNICATIONS~~ COMMUNICATIONS service; and [by]

9 (II) other funds as [the] **PROVIDED IN THE STATE** budget [may
 10 provide].

11 (2) (I) The surcharge may not exceed ~~45~~ **18** cents per month **FOR**
 12 **EACH ACCOUNT** and shall be applied to all current bills rendered for [switched local
 13 exchange access] ~~TELECOMMUNICATIONS~~ A COMMUNICATIONS service in the State.

14 (II) The surcharge is payable at the time the bills for [telephone]
 15 ~~TELECOMMUNICATIONS~~ A COMMUNICATIONS service are due.

16 **(3) THE SURCHARGE TO BE COLLECTED UNDER THIS SECTION**
 17 **ONLY APPLIES TO A COMMUNICATIONS SERVICE FOR WHICH CHARGES ARE**
 18 **BILLED BY, OR ON BEHALF OF, A COMMUNICATIONS COMPANY TO A SUBSCRIBER**
 19 **OF THE COMMUNICATIONS SERVICE.**

20 (d) (1) The Secretary shall annually certify to the Public Service
 21 Commission the costs of the programs under § 3A-504(a) of this subtitle and §
 22 3A-602(a) of this title to be paid by the Universal Service Trust Fund **FOR THE**
 23 **FOLLOWING FISCAL YEAR.**

24 (2) (I) The Public Service Commission shall determine the
 25 surcharge **FOR THE FOLLOWING FISCAL YEAR** necessary to fund the programs under
 26 § 3A-504(a) of this subtitle and § 3A-602(a) of this title [and].

27 **(II) 1. IN ACCORDANCE WITH SUBSECTION (C)(2) AND**
 28 **SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE**
 29 **COMMISSION SHALL SET THE SURCHARGE FOR THE FOLLOWING FISCAL YEAR**
 30 **AT AN AMOUNT THAT IS NO HIGHER THAN NECESSARY TO GENERATE**
 31 **SUFFICIENT REVENUES TO FUND THE COSTS OF THE PROGRAMS FOR THE**
 32 **FOLLOWING FISCAL YEAR, AS CERTIFIED UNDER PARAGRAPH (1) OF THIS**
 33 **SUBSECTION.**

1 **2. IN SETTING THE SURCHARGE UNDER**
 2 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE**
 3 **COMMISSION SHALL TAKE INTO ACCOUNT WHETHER THE SURCHARGE MAY BE**
 4 **ADJUSTED AS A RESULT OF ANY UNCOMMITTED FUNDS IN THE UNIVERSAL**
 5 **SERVICE TRUST FUND AT THE END OF THE FISCAL YEAR THAT MAY BE USED TO**
 6 **FUND THE COSTS OF THE PROGRAMS FOR THE FOLLOWING FISCAL YEAR.**

7 **(3) (A) THE PUBLIC SERVICE COMMISSION SECRETARY** shall,
 8 on 60 days' notice, direct the affected [telephone] **TELECOMMUNICATIONS**
 9 **COMMUNICATIONS** companies ~~THAT ARE PUBLIC SERVICE COMPANIES~~ to add the
 10 surcharge **DETERMINED BY THE PUBLIC SERVICE COMMISSION UNDER**
 11 **PARAGRAPH (2) OF THIS SUBSECTION** to all current bills rendered for [switched
 12 local exchange access] ~~TELECOMMUNICATIONS~~ **COMMUNICATIONS** service in the
 13 State.

14 ~~**(H) 1. IN ACCORDANCE WITH SUBSUBPARAGRAPH 2 OF**~~
 15 ~~**THIS SUBPARAGRAPH, THE SECRETARY SHALL, ON 60 DAYS' NOTICE, DIRECT**~~
 16 ~~**THE AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE NOT PUBLIC**~~
 17 ~~**SERVICE COMPANIES TO ADD THE SURCHARGE TO ALL CURRENT BILLS**~~
 18 ~~**RENDERED FOR TELECOMMUNICATIONS SERVICE IN THE STATE.**~~

19 ~~**2. THE AMOUNT OF THE SURCHARGE ADDED TO**~~
 20 ~~**CURRENT BILLS BY AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE**~~
 21 ~~**NOT PUBLIC SERVICE COMPANIES SHALL BE THE SAME AMOUNT AS THE**~~
 22 ~~**AMOUNT OF THE SURCHARGE ADDED TO CURRENT BILLS BY AFFECTED**~~
 23 ~~**TELECOMMUNICATIONS COMPANIES THAT ARE PUBLIC SERVICE COMPANIES.**~~

24 (e) (1) The affected [telephone] **TELECOMMUNICATIONS**
 25 **COMMUNICATIONS** companies shall act as collection agents for the Universal Service
 26 Trust Fund and shall remit all proceeds monthly to the Comptroller for deposit to the
 27 Universal Service Trust Fund.

28 (2) The [telephone] ~~TELECOMMUNICATIONS~~ **COMMUNICATIONS**
 29 companies shall be entitled to credit against these proceeds in an amount equal to 1
 30 1/2 percent of these proceeds to cover the expenses of billing, collecting, and remitting
 31 the surcharge and any additional charges.

32 (f) (1) The Secretary shall administer the Universal Service Trust Fund.

33 (2) The income derived from investment of money in the **UNIVERSAL**
 34 **SERVICE TRUST** Fund shall accrue to the **UNIVERSAL SERVICE TRUST** Fund.

35 **(3) ANY FUNDS REMAINING AT THE END OF A FISCAL YEAR IN THE**
 36 **UNIVERSAL SERVICE TRUST FUND SHALL BE CARRIED FORWARD WITHIN THE**

1 **UNIVERSAL SERVICE TRUST FUND FOR THE MAINTENANCE AND OPERATION OF**
2 **THE PROGRAMS SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION IN THE**
3 **FOLLOWING FISCAL YEAR.**

4 (g) (1) The Legislative Auditor shall conduct postaudits of a fiscal and
5 compliance nature of the Universal Service Trust Fund and the expenditures made for
6 purposes of § 3A-504(a) of this subtitle and § 3A-602(a) of this title.

7 (2) The cost of the fiscal portion of the postaudit examination shall be
8 paid from the Universal Service Trust Fund as an administrative cost.

9 3A-601.

10 (a) In this subtitle the following words have the meanings indicated.

11 (c) "Program" means the program developed and administered by the
12 Department in consultation with the Board and the Department of Disabilities to
13 provide financial assistance for the purchase of specialized customer telephone
14 equipment by eligible program participants.

15 3A-602.

16 (a) In accordance with the State budget and § 3A-506 of this title, the
17 Department, in consultation with the Board and the Department of Disabilities, shall
18 establish and administer a program:

19 (1) to provide specialized customer telephone equipment to eligible
20 program participants; and

21 (2) to provide reimbursement of costs under § 3A-606 of this subtitle.

22 3A-606.

23 (a) The Department in consultation with the Board and the Department of
24 Disabilities shall enter into an agreement with the State Department of Education,
25 Division of Library Development and Services, providing for an annual payment to be
26 made to the Division in an amount equal to the cost incurred for the distribution of
27 newspapers in a computerized audio format.

28 (b) Under the agreement, the Division of Library Development and Services
29 shall provide eligible blind and disabled individuals with access to newspapers in a
30 computerized audio format by a qualified entity.

31 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be**
32 **construed to expand the jurisdiction of the Public Service Commission in any manner**
33 **over wireless or cellular telephone service or Voice over Internet Protocol (VoIP)**
34 **service.**

1 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect July 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.